HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.19222 of 2006

Dated:06.06.2007

Between:

V.Krishna Murthy.

…Petitioner.

and

The Commissioner & Director of Marketing, Government of Andhra Pradesh, Hyderabad and others.

…Respondents

HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.19222 of 2006

ORDER:

The NABARD evolved a scheme for funding the godowns in the rural areas, particularly at the market yards. The scheme was named as 'Grameena Bhandaran Yojana'. According to the scheme, the required funds were made available in the form of loans from various banks and it was a time bound scheme.

The Executive Engineer, Department of Marketing, Kadapa, issued tender notice inviting tenders for construction of four godowns at Agricultural Market Yard, Adoni, with a capacity of 600 MT, each. The petitioner emerged as the successful tenderer and the agreements were executed on 02.01.2004.

Petitioner states that he had commenced the construction of godowns by digging trenches for foundation and collected the material. Before any substantial progress could be made, he is said to have been orally instructed, by the 2nd respondent on 12.02.2004, to stop the construction, in view of the general instructions received from the

1st respondent. The grievance of the petitioner is that, in spite of his repeated representations, he was not permitted to resume the work. In this Writ Petition, he seeks a declaration to the effect that the inaction of the respondents in issuing instructions to him, as regards completion of the work of construction of godowns, as arbitrary and unconstitutional.

On behalf of respondents, a counter-affidavit and an additional counter-affidavit were filed. The fact that the work was entrusted to the petitioner is not denied. It is, however, stated that certain irregularities were noticed at various places in the state and the 1st respondent issued directions for stoppage of the work. It is pleaded that no written instructions were issued to the petitioner for stoppage of the work, and at this length of time, it is not possible to resume the construction of godowns, inasmuch as the scheme itself had lapsed.

Sri Radha Krishna, learned counsel for the petitioner, submits that there was absolutely no justification for the respondents in stopping the work that was in progress and not permitting the petitioner to resume it. He contends that the Agricultural Marketing Committee, Adoni, is in dire necessity of godowns and the Chairman of the Marketing Committee had addressed a letter on 12.08.2004 to the 1st respondent to enable them to fund the construction, even if the scheme had lapsed. Learned counsel further submits that the respondents ought to have paid the bills for the work undertaken by the petitioner.

Learned counsel for the respondents, on the other hand, submits that though the petitioner was awarded the work, it could not be proceeded with for variety of reasons and it is not possible to resume the work, at this stage, since the scheme had lapsed.

With a clear object of providing storage facility to the farmers, in the rural areas, the central agency had evolved a scheme for construction of godowns. The petitioner became the successful tenderer for construction of four godowns at Adoni. Soon after the agreements were entered into, the petitioner commenced the work, but

even before any progress could be made, oral instructions were issued to him in February, 2004, to stop the work. The petitioner made several representations soon thereafter requesting the respondents to enable him to resume the work. However, nothing positive emerged. The fact remains that the agreements entered with the petitioner remained intact, but he was not permitted to proceed with the work. The scheme was time bound and it lapsed.

Though an attempt was made on the part of the respondents to deny the issuance of oral instructions requiring the petitioner to stop the work, the record and the letters addressed by the petitioner in the months of March and April 2004, clearly disclose that the stoppage of work was attributable to the respondents. Further, it is not in dispute that the

1st respondent issued general instructions to all the Executive Engineers to ensure that the works should be stopped. Therefore, the allegation of the petitioner that he was required to stop the work, on the strength of oral instructions, cannot be said to be incorrect.

Notwithstanding the fact that the scheme had lapsed, the then Person-in-charge, Agricultural Marketing Committee, Adoni, addressed a letter, dated 12.02.2007, to the 1st respondent, with a request to take necessary steps for construction of at least six godowns and that the funds of the Marketing Committee are available to meet the expenditure. This proposal ought to have been considered by the 1st respondent. However, nothing was forthcoming. The result is that the benefit of the scheme, evolved by the NABARD, was not availed, nor the request of the Marketing Committee for construction of godowns was acceded to. In spite of availability of sufficient funds, the minimum facility to the farmers is denied. Such an approach, on the part of the establishment, cannot be countenanced. Even now the proposal needs to be considered and in case it becomes feasible for construction of godowns with the funds of the Marketing Committee,

the work entrusted to the petitioner can be permitted to be executed, if necessary by entering into supplementary agreements, providing for modification of rights due to lapse of time. If it does not fructify, the petitioner needs to be paid the amount for the works undertaken by him.

For the foregoing reasons, the writ petition is disposed of directing that:

a) the 1st respondent shall examine and consider letter, dated 12.08.2004, addressed by the Agricultural Marketing Committee, Adoni, and pass necessary orders, in the matter of according permission for construction of godowns at Adoni, with the Marketing Committee funds, within one month.

In such an event, the petitioner shall be permitted to complete the construction of four godowns, covered by the agreements, subject to modification of rates, as may be mutually agreed.

b) in case, the proposal of the Marketing Committee, Adoni, letter, dated 12.08.2004, is not accepted, respondents 1 and 2 shall pay the petitioner for the works undertaken by him, in pursuance of the agreements executed on 02.01.2004. For this purpose, it shall be open to the petitioner to submit the bills accompanied by necessary proof. The payment after verification of the bills shall be made within two months from the date of submission of the bills.

There shall be no order as to costs.

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Dt.06.06.2007 **L.NARASIMHA REDDY, J**

GJ